

§ 213.7

49 CFR Ch. II (10–1–97 Edition)

may hold the track owner or the assignee or both responsible for compliance with this part and subject to penalties under § 213.15.

(e) A common carrier by railroad which is directed by the Interstate Commerce Commission to provide service over the track of another railroad under 49 U.S.C. 11125 is considered the owner of that track for the purposes of the application of this part during the period the directed service order remains in effect.

[47 FR 39402, Sept. 7, 1982]

§ 213.7 Designation of qualified persons to supervise certain renewals and inspect track.

(a) Each track owner to which this part applies shall designate qualified persons to supervise restorations and renewals of track under traffic conditions. Each person designated must have—

- (1) At least—
 - (i) One year of supervisory experience in railroad track maintenance; or
 - (ii) A combination of supervisory experience in track maintenance and training from a course in track maintenance or from a college level educational program related to track maintenance;
- (2) Demonstrated to the owner that he—

- (i) Knows and understands the requirements of this part;
- (ii) Can detect deviations from those requirements; and
- (iii) Can prescribe appropriate remedial action to correct or safely compensate for those deviations; and

(3) Written authorization from the track owner to prescribe remedial actions to correct or safely compensate for deviations from the requirements in this part.

(b) Each track owner to which this part applies shall designate qualified persons to inspect track for defects. Each person designated must have—

- (1) At least—
 - (i) One year of experience in railroad track inspection; or
 - (ii) A combination of experience in track inspection and training from a course in track inspection or from a college level educational program related to track inspection;

(2) Demonstrated to the owner that he—

- (i) Knows and understands the requirements of this part;
- (ii) Can detect deviations from those requirements; and
- (iii) Can prescribe appropriate remedial action to correct or safely compensate for those deviations; and

(3) Written authorization from the track owner to prescribe remedial actions to correct or safely compensate for deviations from the requirements of this part, pending review by a qualified person designated under paragraph (a) of this section.

(c) With respect to designations under paragraphs (a) and (b) of this section, each track owner must maintain written records of—

- (1) Each designation in effect;
- (2) The basis for each designation; and
- (3) Track inspections made by each designated qualified person as required by § 213.241.

These records must be kept available for inspection or copying by the Federal Railroad Administrator during regular business hours.

[36 FR 20336, Oct. 20, 1971, as amended at 38 FR 875, Jan. 5, 1973]

§ 213.9 Classes of track: Operating speed limits.

(a) Except as provided in paragraphs (b) and (c) of this section and §§ 213.57(b), 213.59(a), 213.113(a), and 213.137 (b) and (c), the following maximum allowable operating speeds apply:

[In miles per hour]

Over track that meets all of the requirements prescribed in this part for—	The maximum allowable operating speed for freight trains is—	The maximum allowable operating speed for passenger trains is—
Class 1 track	10	15
Class 2 track	25	30
Class 3 track	40	60
Class 4 track	60	80
Class 5 track	80	90
Class 6 track	110	110

(b) If a segment of track does not meet all of the requirements for its intended class, it is reclassified to the next lowest class of track for which it does meet all of the requirements of this part. However, if the segment of

track does not at least meet the requirements for Class 1 track, operations may continue at Class 1 speeds for a period of not more than 30 days without bringing the track into compliance, under the authority of a person designated under §213.7(a), who has at least one year of supervisory experience in railroad track maintenance, after that person determines that operations may safely continue and subject to any limiting conditions specified by such person.

(c) Maximum operating speed may not exceed 110 m.p.h. without prior approval of the Federal Railroad Administrator. Petitions for approval must be filed in the manner and contain the information required by §211.11 of this chapter. Each petition must provide sufficient information concerning the performance characteristics of the track, signaling, grade crossing protection, trespasser control where appropriate, and equipment involved and also concerning maintenance and inspection practices and procedures to be followed, to establish that the proposed speed can be sustained in safety.

[36 FR 20336, Oct. 20, 1971, as amended at 38 FR 875, Jan. 5, 1973; 38 FR 23405, Aug. 30, 1973; 47 FR 39402, Sept. 7, 1982; 48 FR 35883, Aug. 8, 1983]

§213.11 Restoration or renewal of track under traffic conditions.

If during a period of restoration or renewal, track is under traffic conditions and does not meet all of the requirements prescribed in this part, the work on the track must be under the continuous supervision of a person designated under §213.7(a) who has at least one year of supervisory experience in railroad track maintenance. The term "continuous supervision" as used in this section means the physical presence of that person at a job site. However, since the work may be performed over a large area, it is not necessary that each phase of the work be done under the visual supervision of that person.

[47 FR 39402, Sept. 7, 1982]

§213.13 Measuring track not under load.

When unloaded track is measured to determine compliance with require-

ments of this part, the amount of rail movement, if any, that occurs while the track is loaded must be added to the measurement of the unloaded track.

[38 FR 875, Jan. 5, 1973]

§213.15 Civil penalty.

Any person (including a railroad, any manager, supervisor, official, or other employee or agent of a railroad, any owner of track on which a railroad operates, or any person held by the Federal Railroad Administrator to be responsible under §213.5(d)) who violates any requirement of this part or causes the violation of any such requirement is subject to a civil penalty of at least \$250 and not more than \$10,000 per violation, except that: Penalties may be assessed against individuals only for willful violations, and, where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, a penalty not to exceed \$20,000 per violation may be assessed. Each day a violation continues shall constitute a separate offense. See appendix B to this part for a statement of agency civil penalty policy.

[36 FR 20336, Oct. 20, 1971, as amended at 53 FR 28598, July 28, 1988; 53 FR 52924, Dec. 29, 1988]

§213.17 Exemptions.

(a) Any owner of track to which this part applies may petition the Federal Railroad Administrator for exemption from any or all requirements prescribed in this part.

(b) Each petition for exemption under this section must be filed in the manner and contain the information required by §§211.7 and 211.9 of this chapter.

(c) If the Administrator finds that an exemption is in the public interest and is consistent with railroad safety, he may grant the exemption subject to any conditions he deems necessary. Notice of each exemption granted is published in the FEDERAL REGISTER together with a statement of the reasons therefor.

[36 FR 20336, Oct. 20, 1971, as amended at 48 FR 35883, Aug. 8, 1983]